

SCOTT N. SCHOOLS (SC 9990)
United States Attorney

MARK L. KROTOSKI (CSBN 138549)
Chief, Criminal Division

DENISE MARIE BARTON (MABN 634052)
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, CA 94102
Telephone: (415) 436-7359
Facsimile: (415) 436-7234

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. 3-06-70636 EDL
)	
Plaintiff,)	[PROPOSED] ORDER AND STIPULATION
)	(1) RECALLING AND REISSUING
v.)	SUMMONS AND (2) EXCLUDING TIME
)	FROM MAY 16, 2007 TO JULY 6, 2007
MARVIN EARL WEBB,)	FROM THE SPEEDY TRIAL ACT
)	CALCULATION (18 U.S.C. § 3161(h)(8)(A))
Defendant.)	

On October 3, 2006, based on a criminal complaint presented by Bureau of Alcohol, Tobacco, Firearms, and Explosives Special Agent Tommy Ho, the Hon. Elizabeth D. Laporte issued a summons for the Defendant to appear on November 7, 2006 at 9:30 a.m. On November 7, 2006, after the parties filed a Joint Stipulation seeking to recall and reissue the summons and exclude time, the Honorable Judge Edward Chen ordered that the summons be recalled and reissued for February 2, 2007 and that the time from October 6, 2006 through February 2, 2007 shall be excluded from the Speedy Trial Act calculations. On February 1, 2007, upon filing of a Joint Stipulation seeking to recall and reissue the summons and exclude time, the Honorable Judge Maria Elena James ordered that the summons be recalled and reissued for April 10, 2007 and that the time from February 2, 2007 through April 10, 2007 shall be excluded from the

1 Speedy Trial Act calculations. Thereafter, on March 27, 2007, upon filing of a Joint Stipulation
2 seeking to recall and reissue the summons and exclude time, the Honorable Judge Joseph C. Spero
3 ordered that the summons be recalled and reissued for May 16, 2007 and that the time from April
4 10, 2007 through May 16, 2007 shall be excluded from the Speedy Trial Act calculations.

5 Counsel for the Government and Defendant continue to discuss resolving this matter by
6 Rule 20 transfer to the Middle District of Tennessee to permit the Defendant, who suffers from
7 significant health issues, to resolve the matter in that District. See 18 U.S.C. § 3161(h)(1)(G).
8 Defendant is currently hospitalized in Birmingham, Alabama recovering from a staph infection
9 arising after recent neck surgery. The defendant's health problems still significantly limit his
10 ability to travel outside of the Tennessee area. Due to these health complications, it will be
11 impossible for the Defendant to appear in San Francisco on May 16, 2007. The parties hereby
12 seek additional time to allow the Defendant to recover from his illness and to continue discussing
13 the best means to resolve this matter and effect the Rule 20 transfer. Further, counsel for the
14 Defendant does not believe it is in his client's best interests for the government to indict the case
15 within 30 days of the service of the summons, as required under 18 U.S.C. § 3161(b).

16 Accordingly, the parties have agreed as follows:

17 1. The summons for May 16, 2007 should be recalled, and a new summons should be
18 reissued for July 6, 2007.

19 2. The defendant agrees to an exclusion of time under the Speedy Trial Act from May 16,
20 2007 to July 6, 2007. Failure to grant the requested continuance would unreasonably deny both
21 government and defense counsel reasonable time necessary for effective preparation and deny the
22 Government continuity of counsel, taking into account the exercise of due diligence, the need for
23 both sides to investigate the facts of the case, and the on-going attempts to reach a resolution of
24 the matter involving a Rule 20 transfer. See 18 U.S.C. §§ 3161(h)(8)(B)(iv), 3161(h)(1)(G).

25 3. Given these circumstances, parties agree and the Court should find that the ends of
26 justice served by excluding the period from May 16, 2007 to July 6, 2007. outweigh the best
27 interest of the public and the defendant in a speedy trial. Id. at § 3161(h)(8)(A).

1 IT IS SO STIPULATED.

2
3
4 DATED: May 14, 2007

/s/
DENISE MARIE BARTON
Assistant United States Attorney

5
6
7
8 DATED: May 14, 2007

/s/
HUGH MUNDY
Attorney for MARVIN EARL WEBB

9
10
11 IT IS SO ORDERED.

12 The summons for the Defendant's appearance on May 16, 2007 is hereby RECALLED. A
13 new summons requiring the Defendant to appear on July 6, 2007. shall issue. Pursuant to the
14 parties' stipulation and for the reasons set forth above, the time from May 16, 2007 to July 6,
15 2007 shall be excluded from the Speedy Trial Act calculations.

16
17 DATED: May 15, 2007

